

To: Little Hoover Commission
From: John Upton, Member, South Lake Tahoe City Council and Former
President, California Association of Counties
Subject: Summary of planned remarks for Public Hearing, November 20, 2003

These comments are preliminary. I expect to supplement them based on further information through the Advisory Committee/Commission discussion process.

The *first step* that should be taken in “identifying the essential elements of a roadmap for structural reform” is to *describe the failed past efforts, and the lessons from those efforts that this process should avoid repeating.*

Special interest power, plus public frustration with government (cost, inefficiency, inequity, etc) have resulted in several voter-approved “blunt instrument” fiscal reforms that provide the basis for the current crisis. The first significant “blunt instrument fiscal reform” to be imposed upon State and local government was Proposition 13. Many have followed; the most significant that immediately come to mind are Propositions 98 and 218. Each create distortions in distribution of financial resources and policy flexibility, which in turn have made knowledgeable people evolve in belief in reform as desirable, then necessary, then urgent, and perhaps now most would agree that it is unavoidable.

I have personally read large volumes of material, and attended a large number of meetings, seminars, discussion sessions, and the like on the subject of fiscal/structural reform in the past 15 years. Simplified in the interest of brevity, I will describe my understanding of past legislative efforts at responding to these issues:

1. The AB 8 response to Proposition 13 used the State surplus to increase the proportional State funding for schools, attempting to “make other local agencies whole” by a proportional redistribution of some of the schools share of property taxes. It was a “one size fits all” solution, because it was simple, expedient, easy to understand, and generated a minimum of controversy. Legislative efforts were focused, and were responding to an evident crisis. It did not completely replace lost property taxes. When possible, as with water and sanitation agencies, the deficit was made up with increased user fees. Local agencies with little revenue flexibility, such as cities and counties, made up the difference with cost reductions, the most cumulative of which is the indefinite deferral of adequate maintenance of, and investment in, local infrastructure.

When the State budget fell on hard times in 1992-93 and 1993-94, the solution was ERAF (Educational Resources Augmentation Fund), which essentially negated the AB 8 solution. Nearly \$4 Billion in property taxes went into ERAF, replaced in part by about \$2.3 Billion in Proposition 172 (Public Safety sales tax initiative) funds, but this required the remaining shortage to be taken from non-public safety local services. Again, it was a “one size fits all” solution, because it was simple, expedient, and easy to understand. Legislative efforts were focused, and were in response to a crisis. Controversy was alleviated by public safety support, required voter approval, and the requirement that

local governing bodies pass resolutions in support of receiving Proposition 172 funds if they were to benefit from the passage of Proposition 172 by the voters.

2. The California Constitution Revision Commission (CCRC), 1993, developed some modest reform proposals that were introduced late in the (I think, 1996) legislative session. The reforms were not responses to a crisis, and were so modest that none justified passionate support, but were subject to passionate opposition because they could have changed the status quo in many areas. Beyond submission of its report, no evident provisions existed for translating CCRC recommendations into legislative action, and most (if not all) of its recommendations were never acted upon.

3. The Commission of Local Governance for the 21st Century (1997) and the Speakers Commission on State and Local Government Finance (1998) identified several reform issues, and recommended solutions. They were not made at a time of crisis, and there existed no provisions for legislative action. The recommended solutions were complex, required considerable further work, and were never acted upon.

4. In 1999, the Legislature requested the Legislative Analyst's Office to provide a set of options for rethinking the current property tax allocation system. The LAO provided five alternative approaches in "Reconsidering AB 8: Exploring Alternative Ways to Allocate Property Taxes" (February 3, 2000). The 5th of those alternatives, "Making Government Make Sense" (MGMS), was really about (and referred back to) a 1993-94 LAO paper making the case for programmatic reform, not property tax allocation. The report (front page!) stated that "three considerations are important in improving the chances for local finance reform", which were the need to make choices among tradeoffs in "no perfect solution"; the "need for focused attention," and the desirability of providing funding to facilitate reform. Again, no crisis existed at the time the report was submitted, and there were no provisions for legislative action. Funding to facilitate reform soon disappeared, and focused attention never occurred. None of the LAO proposals were ever acted upon.

I offer the following lessons and observations from my experience, and from the above:

1. Complex solutions are not likely to emerge from the legislative process.
2. Solutions must be seen as significant, or they will not be worth the cost in controversy and special interest opposition.
3. The entire Legislature must be engaged in the process.
4. Crisis conditions may be a precondition for creating the focus for action.
5. *It is necessary at the start to make provisions establishing a mechanism, responsibilities, and deadlines for legislative action to follow recommendations.*

I believe that fiscal, budget, organizational, and state/local government relationship issues must be dealt with together. These will involve complex considerations, and the current crisis situation demands significant solutions.

I suggest the following as essential elements in a roadmap for fiscal/structural reform:

1. The Legislature must be given a consensus solution developed outside the legislative process. Provisions must be made at the start for how it will be processed in the

Legislature, with responsibilities, deadlines, and the capacity for the consensus solution to move forward intact despite controversy.

2. Convene a “bottom up” solution of local governments (cities, counties, special districts, schools), private/public “think tanks”, and others, with their work coordinated by a “reengineering government” consultant. The role of representatives from the Governor’s office and Legislature would be as observers with specific formal responsibilities for educating their colleagues and leadership.

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. A comprehensive public and legislative education component would precede, attend, and follow the process.

4. The solution process should first focus on programmatic restructuring, because the maximum elimination of waste is a precondition for seeking additional funding.

5. As for fiscal restructuring, the process would be charged with focus on doing the “right thing for the public interest” and “doing no harm”, dealing with such potential issues as:

- a. Correcting the unintended consequences of Proposition 13: Restoring local authority, and the logical link between sources and uses of revenue.
- b. The long-term imbalance dictated by the provisions of Proposition 98.
- c. Sales taxes applied to services, as well as goods.
- d. The “situs” versus population based allocation of sales taxes.
- e. Setting a fair level, and defining proper uses for, vehicle licensing fees.
- f. Protecting the local revenue base from State confiscation and State unfunded mandated costs.
- g. Adequate revenue to fund needed investments in infrastructure.
- h. Correcting the cumulative effect of measures negatively affecting the State’s economic competitiveness.
- i. Electoral/Constitutional reform to restore the deliberative role and capacity of the Legislature so the State can sustain a position of leadership because it can adapt its fiscal and programmatic structure to changed future conditions.

It is an honor to participate in this process. I present these thoughts in the hope that they may constructively advance solutions to our shared challenges.